HON'BLE THE CHIEF JUSTICE SHRI G.S. SINGHVI
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

Writ Petition No. 15545 of 2007

Between:

R. Janardhan and others

... Petitioners

and

Municipal Council,
Jagitial, Karimnagar District

... Respondent

:: O R D E R ::

Counsel for the petitioners : Shri C. Ramesh Sagar

Counsel for the respondent : Shri Polisetty Radha Krishna

July 24, 2007

Per G.S. Singhvi, CJ

This is a petition for quashing provisional order dated 07.07.2007 and final order dated 13.07.2007 passed by Commissioner, Jagitial Municipality (the respondent) under Section 228(1) and (2) and Section 228(3) respectively of the Andhra Pradesh Municipalities Act, 1965 (for short, 'the Act') for removing the alleged violations made by the petitioners while constructing building over property bearing H.No.1-4-243, 244 and 245 situated at Yawar Road, Jagitial,

Karimnagar District.

At the hearing, we pointed out to Shri P. Radha Krishna, learned Standing Counsel for Jagitial Municipality that provisional as also the final order passed by the Commissioner do not specify the nature of violations and, therefore, the same may have to be annulled.

Shri P. Radha Krishna responded to the Court's observation by saying that the respondent will pass fresh orders under Sections 228(1) and (2) and 228(3) and called upon the petitioners to remove the specific violations.

In view of the fair stand taken by the learned Standing Counsel for the respondent, the writ petition is disposed of with the following directions:

(1) Within seven days from today, the respondent may issue fresh notices to the petitioners specifying therein the particular violations of the sanctioned building plan.

(2) Within next two weeks, the petitioners may submit their explanation.

(3) Within two weeks of the submission of the reply by the petitioners, the competent authority shall pass appropriate orders.

(4) If the concerned authority comes to the conclusion that the petitioners have raised construction in violation of the sanctioned plan, then they may be given reasonable time to voluntarily remove the same.

(5) If the petitioners fail to remove the violations, it will be open to the competent authority to remove the illegal/unauthorized construction and recover cost of the removal operation from the petitioners.

(6) If the petitioners challenge the final order which may be passed

by the competent authority under Section 228(3) of the Act by filing suit, then the concerned Court shall pass appropriate order only after giving notice and opportunity of hearing to the Municipality.

As a sequel to disposal of the writ petition, W.P.M.P.No.19666 of 2007 filed by the petitioners for interim relief is dismissed.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

July 24, 2007

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